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Attorneys for: Spire Construction, LLC

United States District Court

District of Nevada

CANYON FLATS III, LLC,

Plaintiff,

vs.

SPIRE CONSTRUCTION, LLC,

Defendant.

Case No.: 3:20-cv-602

Notice of Removal

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Spire Construction, LLC ("Spire") hereby gives notice of the removal of this action from the Second Judicial District Court, Washoe County, Nevada, to the United States District Court for the District of Nevada. In support of this Notice of Removal, Spire provides the following information:

1. On October 20, 2020, Plaintiff Canyon Flats III, LLC ("Plaintiff") filed a Complaint against Spire in the Second Judicial District Court, Washoe County, Nevada

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entitled Canyon Flats III, LLC v. Spire Construction, LLC, Case No. CV20-01679 (the “State Court Action”).

2. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 based on diversity of citizenship because there is complete diversity of citizenship and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

Citizenship

3. As alleged in the Complaint, Plaintiff is a Nevada limited liability company with its principal place of business in Roanoke, Virginia.

4. As disclosed in Plaintiff's NRCP 7.1 Disclosure Statement, Plaintiff is wholly owned by Canyon Flats II, LLC. Canyon Flats II, LLC is wholly owned by Canyon Flats, LLC.

5. Spire is informed and believes, and on that basis alleges, that Canyon Flats, LLC's sole member is University Housing Group, Inc.

6. University Housing Group, Inc. is a North Carolina corporation with its principal place of business in Roanoke, Virginia.

7. Limited liability companies are citizens of the states in which its members are citizens. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894 (9th Cir. 2006). Corporations are citizens of every State and foreign state by which it has been incorporated and the State or foreign state where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

8. Plaintiff is therefore a citizen of North Carolina and Virginia.

9. Spire's members are individuals Gene Ritz and Russ Greer. Gene Ritz and Russ Greer are both citizens of Florida. Therefore, Spire is a citizen of Florida.



Amount in Controversy

10. In its Complaint, Plaintiff alleges it has incurred damages in excess of \$500,000, and it is therefore entitled to the full amount of liquidated damages provided for in the parties' contract, \$500,000.

11. Accordingly, the amount in controversy is at least \$500,000, which exceeds \$75,000, exclusive of interest and costs.

Timeliness

12. This action is removable under 28 U.S.C. § 1441(b) because: (a) this Court has original jurisdiction under 28 U.S.C. § 1332 based on diversity of citizenship because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs; and (b) Spire is not a citizen of Nevada.

13. Spire, through its attorney, first received a copy of the summons and complaint on October 20, 2020, by email. On October 22, 2020, Spire, through its attorney, offered to waive service. On October 23, 2020, Spire, through its attorney, signed the waiver of service form provided by Plaintiff. The 30th day after Spire first received a copy of the initial pleading, through service or otherwise, is November 19, 2020.

14. Accordingly, this action is timely removed by Spire in accordance with 28 U.S.C. § 1446(b).

15. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, and orders served upon Spire in this action are attached hereto as Exhibit 1.

Wherefore, Spire requests this action proceed in this Court as an action properly removed.

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October 26, 2020

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Theodore Chrissinger
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